IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 18401 of 2004

Between:

1 Kontham Tatarao, s/o Abbai @ Appalaswamy,
R/o. Kesavaram Village, Payakararaopet mandal, Visakhapatnam District.
2 Vemula Ammaji, W/o Subbarao,
R/o. Aaratlakota Village, Payakararaopet mandal, Visakhapatnam District.
3 Kontham Jogarao, s/o Kasanna,
R/o. Masatabpet Village, Payakararaopet mandal, Visakhapatnam District.

..... PETITIONERS

AND

1 The Joint Collector, Visakhapatnam.
2 The A.P. Command Area Development Commissioner, CAD I & CAD, Erramanzil, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of writ of mandamus declaring the impugned proceedings of the 1st respondent in R.No. 5330/2002/D2, dated 11-9-2004 as illegal arbitrary capricious and violative of principle and natural justice and also Article 21 of the constitution of India and suffers from inherent lack of jurisdiction and inaction of the 2nd respondent in not granting any interim orders of stay as unjust and in equitable and consequently to set aside the impugned order of the 1st respondent.

Counsel for the Petitioners:SMT.N.(P).ANJANA DEVI, SATYANARAYANA

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

The Court at the admission stage made the following order :

ORDER:

The petitioners claim to be the agriculturists and carrying on cultivation in Survey Nos.1/1, 2/1 and 2/2 of Masatabpet village, Payakararaopet Mandal, Visakhapatnam District.

It appears that when a dispute arose as to the supply of water through Rajavaram Channel, the Joint Collector, Visakhapatnam District, having considered the rival claims, passed an order on 11.09.2004. The petitioners state that immediately thereafter, they preferred an appeal before the second respondent-the Andhra Pradesh Command Area Development Commissioner, Hyderabad along with an application for stay. The only grievance of the petitioners is that the second respondent failed to consider the same and in the meanwhile, they are unable to carry on the agricultural operations since there is no provision for supply of water.

The learned Government Pleader for Irrigation and Command Area Development, under instructions, states that there is no dispute about the fact that the second respondent is the appellate authority under the Statute. If that be so, the second respondent is bound to consider the appeal preferred by the petitioners and appropriate order shall be passed.

In the circumstances, I deem it appropriate to dispose of the writ petition with a direction to the second respondent to dispose of the application for stay filed by the petitioners in the appeal filed against the order passed by the first respondent dated 11.09.2004 as expeditiously as possible, preferably within a period of one week from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No costs.

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11.10.2004

Jsu/Vgb

To

1 The Joint Collector, Visakhapatnam.
2 The A.P. Command Area Development Commissioner, CAD I & CAD, Erramanzil, Hyderabad.

3 2CCs to the Government Pleader for Irrigation and Command Area Development, High Court Buildings, Hyderabad (O.U.T).

4 2CD copies.